

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE:

Steven Alan Ricketts
Teresa Annette Ricketts
Debtor(s)
_____ /

Case No. 8:12-bk-08944-MGW
Chapter 13

**MOTION TO DETERMINE SECURED STATUS OF WELLS FARGO BANK N.A.
AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider this motion without further notice or hearing unless a party in interest files an objection within 30 days from the date this paper is entered on the docket. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at 801 North Florida Avenue, Suite 555, Tampa, FL 33602-3899, and serve a copy on the movant's attorney, David Thorpe, The Thorpe Law Firm, P.A., 7819 N. Dale Mabry Hwy., Suite 108, Tampa, FL 33614

If you file and serve an objection within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW Steven Alan Ricketts and Teresa Annette Ricketts (the "Debtor(s)") by and through the undersigned counsel, and files this Motion to Determine Secured Status of Wells Fargo Bank N.A. and to Strip Lien and states as follows:

1. The Debtor(s) filed a petition for relief under Chapter 13 of the Bankruptcy Code on June 8, 2012.

2. The Debtor(s) owns real property (the "Real Property") located at 2147 Trevor Road, Palm Harbor, Florida, and more particularly described as follows:

Lot 2, The Enclave at Gleneagles, according to the map or plat thereof as recorded in Plat Book 107, Pages 42 through 44, of the Public Records of Pinellas County, Florida

3. The Real Property is encumbered by two mortgages:

a) Carrington Mortgage Services, account number 3205, holds the first mortgage, recorded on March 16, 2005, at Book 14178, Pages 2143-2165, Instrument No. 2005096994 of the official records of Pinellas County by virtue of an assignment of mortgage recorded on May 13, 2011, at Book 17249, Pages 1333-1334, Instrument No. 2011127465 and has filed Claim No. 8 in the amount of \$245,837.76.

b) Wells Fargo Bank N.A., (formerly Wachovia Mortgage Corporation) account number 6977, holds a second mortgage, recorded on March 16, 2005, at Book 14178, Pages 2166-2182, Instrument No. 2005096995 of the official records of Pinellas County and has a balance in the amount of \$32,979.03 as evidenced by the attached statement hereto as Exhibit 1.

4. Based on the appraisal attached hereto as Exhibit 2, the value of the Real Property is \$205,000.00.

5. Accordingly, Wells Fargo Bank N.A.'s second mortgage is completely unsecured.

Wherefore, the Debtor(s) respectfully requests that the Court enter an order:

- (a) granting the Motion; (b) determining the value of the Real Property to be \$205,000.00;
- (c) determining that Wells Fargo Bank N.A.'s claim shall be treated as an unsecured claim;
- (d) voiding the mortgage lien of Wells Fargo Bank N.A. effective upon discharge; and (e) granting such other and further relief as the Court deems appropriate.

The Thorpe Law Firm, P.A.
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Tel. (813) 933-5051
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/s/ David Thorpe
David Thorpe, Esq.
Fla. Bar No. 0110523

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by

Certified U.S. Mail on the 23rd day of October, 2012, to the following:

Terry E. Smith, Trustee

Wells Fargo Bank, N.A.
Attn: John Stumpf, CEO
420 Montgomery Street
San Francisco, CA 94163

/s/ David Thorpe
David Thorpe, Esq.